

INSTRUCTIONS FOR APPLICATION FOR RIGHT-OF-WAY EASEMENT FOR UTILITIES OVER, UNDER, ALONG, OR ACROSS STATE-OWNED LANDS

NOTE: Easement requests are processed on a first come, first served basis. Department review of complete application packages may take a minimum of 120 days. Incomplete applications and those requiring further information may take longer.

WHEN ACCEPTING APPLICATIONS FOR EASEMENTS, THE STATE BOARD OF LAND COMMISSIONERS REQUIRES THE FOLLOWING:

1. An original and one copy of the completed application.
2. An original and one copy (or two copies) of the most current USGS 7.5 Minute Quad map with the easement platted thereon, including acreage taken and remaining in each government lot or 40-acre tract. Additionally, each quarter quarter must be outlined and identified on the quad map. An exact geographical survey is not required. The description of centerline of the right-of-way is required. A Montana licensed surveyor or engineer must attest to the accuracy of the description provided in the application by filling out the Affidavit on the back of the application form. The description of a found established monument within a filed corner recordation form, certificate of survey, or subdivision plat is required and must be described in detail within the Affidavit portion of the application form. In the event a previously established monument cannot be located, one must be legally established and recorded prior to application being made for right-of-way. Global Position System (GPS) surveys are acceptable, however, an affidavit prepared and signed by a Montana licensed surveyor or professional engineer attesting to the model of GPS unit used and accuracy level of 5 meters or less must be provided.
3. A statement signed by the surface lessee which indicates that arrangements have been made for compensation for leasehold damages, if any.¹
4. A statement signed by the applicant that gives the reason(s) why application is made on state-owned land rather than an alternative.
5. An explanation of the proposed project.
6. A professional Cultural Survey.
7. A non-refundable \$50.00 application fee must accompany the application when submitted before any processing will begin.

THE APPLICATION must be completed in a manner that reflects the name of the applicant as you wish it to appear on the easement document.

IF THE LEGAL subdivision or metes-and-bounds description does not appear on the mapped plat of easement, it must appear on the application. The affidavit of the surveyor or professional engineer may appear on the map plat only. It is not necessary for that person to sign in the preparer space on the application so long as the affidavit is on the plat map.

IF CROSSING multiple state trust land sections, the entire right-of-way may be applied for under one application fee with only one map plat of the entire right of way required. The plat may include all state-owned tracts on the one map. However, this is not applicable to the application form. A separate legal description must be made for each section of state-owned land unless the state lands are contiguous without interruption. In those instances, separate acreage calculations for each section should be noted. (Separate records are kept in our files on each section).

IN ACCORDANCE with §77-2-107 MCA, a surface lessee must be compensated for any damages to improvements (e.g. road, summer fallow, forage, water developments, buildings, fences, etc.), crops, or leasehold interests. The State has retained the right to grant rights-of-way easements.

A STATEMENT of necessity for the easement must be included. The applicant should indicate alternatives that were considered and the reasons why said alternatives are not acceptable.

AN EXPLANATION of the project should advise the department as to the parameters of the entire project. Does it involve just the state-owned lands under this application, or does it involve other lands (federal, private, or state)? If other lands are involved, the applicant should provide a copy of a general map of the entire project area/route and a discussion of what the project entails, including proposed construction methods and time frames. This information is needed in order to properly evaluate the easement request in compliance with the Montana Environmental Policy Act. Include information on each other agency's involvement (e.g. local conservation districts, U.S. Army Corps of Engineers, Montana Department of Environmental Quality, Montana Department of Transportation, etc.).

ADDITIONAL information such as staking sheets, formal design and construction plans, and any other information that might help the department understand the scope and effect of the proposed project should be included. The department may request any additional information it deems necessary.

CULTURAL SURVEY - Anyone interested in involving State School Trust lands in a project should contact the department's archaeologist prior to submitting an application. A survey conducted by an approved professional may be recommended, unless waived by the department's staff archaeologist. Applicants may elect to wait for department staff to conduct the survey, but should be aware that this will probably delay processing of their application for their project.

CHARGES for easements are usually based on either the market value of the requested acres (plus damages, if any, to the remaining lands) or the type of use and are not due until after board approval. If the easement is approved, you will be sent a billing statement which must be paid within thirty (30) days.

ALL AGENCIES OR PERSONS interested in involving State School Trust lands in their projects should contact the area office that handles the county where the request is located. The area office should be contacted before an application is prepared. After discussion (and a possible on-site inspection), the area manager will consider whether the project is in the best interest of the trust. If no problems are identified, an application may be made. All easement applications are to be sent to the respective area offices for review. Enclosed is a listing of area offices and the counties they manage.

Notice of Settlement of Damages Statements must be signed by all parties named on the surface lease. Signatures by person(s) acting on behalf of the leaseholder(s) will be accepted only if the statement is accompanied by a certified copy of a Power of Attorney authorization. Additionally, statements signed by individual(s) acting as Personal Representative(s) of a lessee's estate will be accepted only when accompanied by documentation appointing the signatory as Personal Representative. It is in the applicant's best interest to ensure that, prior to submittal, application materials are accurate and complete in order to prevent delay in processing.

**APPLICATION FOR RIGHT OF WAY EASEMENT FOR UTILITIES OVER,
UNDER, ALONG OR ACROSS STATE LANDS**

(Non-Refundable Application Fee -- \$50.00)

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_____ Montana, _____, 20

**To the State Board of Land Commissioners
 □ Montana Department of Natural Resources and Conservation**

Application is hereby made under the provisions of Title 77, Chapter 2, Section 101 of the Montana Code Annotated, by _____ of _____ for a right of way easement for the purpose(s) of _____ through _____, Section _____, Township _____, Range _____, County of _____.

Duly verified quad maps in duplicate accompany this application and are made a part hereof. The tract or strip of land required for the said right of way is more particularly described as follows:

A tract or strip of land _____ feet wide, _____ feet on each side of a centerline described as follows:

DESCRIPTION

Said easement area contains _____ acres.

An application packet must contain all of the following - Please check box when completed.

- ☐ \$50.00 Application Fee Enclosed
- ☐ Original and one copy of application signed by authorized representative of applicant
- ☐ Affidavit completed, found monument corner appropriately described (i.e. brass cap, aluminum pipe, etc. with notation of inscription, if any)
- ☐ Copy of corner recordation form or other support documentation as found in county courthouse
- ☐☐☐ Quad map - ¼¼'s shown, found corner identified, acreage taken and remaining from each ¼¼, North arrow and scale; OR GPS Survey – affidavit signed by licensed surveyor or licensed professional engineer, which includes model of unit and level of accuracy
- ☐ Centerline Description (Must begin and end with a tie in to the found section corner)
- ☐ Lessee settlement signed by all parties to the lease.
- ☐ Statement of necessity, what other routes were considered, why rejected.
- ☐ If overhead facility, type of line (distribution/transmission), number of poles to be used (single or double construction), number of guys and anchors and voltage of line, if electric.
If pipeline, diameter of pipe stated?
- ☐ Stream/river crossing - list attached of other navigable river permits applied for and current status. If waived by other state or federal agencies, attach letter of waiver from authorized agent.

Name of Applicant_____

Signature of Authorized Signatory
Title _____

Address _____

AFFIDAVIT

I _____, the person who prepared the attached exhibit for easement for which application is hereby made, do hereby certify that the description of the right of way as given in this application is accurate and correct in every particular and that the monument referenced herein described as follows:

_____.

Dated at _____, this ____ day of _____, 200 ____.

Signed _____

Title _____

STATE OF _____)
County of _____)

On this ____ day of _____, in the year 200____, before me _____, a Notary Public for the State of Montana, personally appeared _____ known to me to be the person whose name ____ subscribed to the within instrument and acknowledged to me that _____ executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certification above written.

Notary Public for the State of Montana
Residing at_____
My Commission Expires_____